

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
LUFKIN DIVISION**

UNITED STATES OF AMERICA

v.

DAVID J. ROSS

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CASE NUMBER 9:22-CR-00013-MAC

**REPORT AND RECOMMENDATION ON
THE DEFENDANT'S COMPETENCY TO STAND TRIAL**

Pursuant to 28 U.S.C. § 636(b) and the Local Rules for the United States District Court for the Eastern District of Texas, this criminal proceeding is before the undersigned United States magistrate judge.

On June 16, 2022, the Defendant filed an *Unopposed Motion for Psychiatric or Psychological Examination to Determine Competency*, and the court granted that motion on June 17, 2022. (Doc. No. 12, 13.) The Defendant was subsequently evaluated by Jeremiah Dwyer, Ph.D., Licensed Psychologist at the Federal Correctional Institution in Englewood, Colorado and found competent.

Dr. Dwyer's psychiatric report concludes that the Defendant does not appear to suffer from a mental disease or defect rendering him unable to understand the nature and consequences of the proceedings against him or to properly assist in his defense. (Doc. No. 24.)

A competency hearing was conducted on January 17, 2023. At the hearing, the Defendant appeared in court with his counsel, Gary Bonneaux. Mr. Bonneaux did not present any objections to Dr. Dwyer's opinion on competency. Neither the Government nor the defense objected to the psychological report's results and findings.

The undersigned concludes that the Defendant is able to understand the nature and consequences of the proceedings against him and to assist properly in his defense. The Defendant has a rational and factual understanding of the proceeding against him, and has sufficient present ability to consult with his attorney with a reasonable degree of rational understanding. 18 U.S.C. § 4241(d); *see also Dusky v. United States*, 362 U.S. 402 (1960).

RECOMMENDATION

The court should find the Defendant competent to stand trial because he understands the nature and consequences of the proceeding against him and is able to assist in his defense. *See* 18 U.S.C. § 4241. It is further recommended that the speedy trial time be excluded from June 16, 2022 (the date the Defendant filed an Unopposed Motion for Psychiatric Exam), until the date on which the District Judge signs the order adopting this report and recommendation.

OBJECTIONS

Pursuant to 28 U.S.C. § 636(b)(1)(C), each party to this action has the right to file objections to this Report and Recommendation. However, the parties verbally waived the fourteen-day objection period at the competency hearing held on January 17, 2023. Therefore, the report is ripe for the District Judge to adopt.

SIGNED this 19th day of January, 2023.



Zack Hawthorn
United States Magistrate Judge